



Sussex County Council Agendas & Minutes

SUSSEX COUNTY COUNCIL - GEORGETOWN, DELAWARE, MAY 11, 2004

Call to Order The regular meeting of the Sussex County Council was held Tuesday, May 11, 2004, at 6:30 p.m., in the Council Chambers, Sussex County Administrative Office Building, Georgetown, Delaware, with the following present:

Dale R. Dukes	President
Finley B. Jones, Jr.	Vice President
Lynn J. Rogers	Member
Vance Phillips	Member
David Baker	Finance Director
James D. Griffin	County Attorney

M 307 04 A Motion was made by Mr. Phillips, seconded by Mr. Jones, to approve the
Approve Agenda of May 11, 2004.
Agenda

Motion Adopted: 4 Yea, 1 Absent.

Vote by Roll Call: Mr. Phillips, Yea; Mr. Cole, Absent;
Mr. Rogers, Yea; Mr. Jones, Yea;
Mr. Dukes, Yea

M 308 04 A Motion was made by Mr. Jones, seconded by Mr. Phillips, to Adopt the
Adopt Proclamation entitled "PROCLAIMING THE WEEK OF MAY 15
Procla- THROUGH MAY 22, 2004 AS EMERGENCY MEDICAL SERVICES
mation WEEK".

Motion Adopted: 4 Yea, 1 Absent.

Vote by Roll Call: Mr. Phillips, Yea; Mr. Cole, Absent;
Mr. Rogers, Yea; Mr. Jones, Yea;
Mr. Dukes, Yea

Adminis- Mr. Baker read the County Administrator's Report:
trator's

Report

1. **Citizens Coalition, Inc. v. Sussex County**

On April 30, 2004, Vice Chancellor Donald Parsons upheld the approval of the change of zone application of Country Life Homes

for 185 multi-family dwelling units on approximately 30 acres on the easterly side of Plantations Road.

The main issue in the case was whether the rezoning violated the Memorandum of Understanding with DelDOT regarding the traffic impact on the intersection at Plantations Road / Warrington

Adminis-
trator's
Report
(continued)

Road/Route 24. Vice Chancellor Parsons made the following holding:

The Land Use Planning Act does not transfer zoning authority from local to state control. While the Act provides for notice and comment by various state agencies on proposed land use actions, the final decision-making authority remains with the local jurisdiction. The Commission and Council were advised of and considered the comments of the State Planning Coordinator, which are part of the record. After considering those and other comments presented, Council determined that the site was appropriate for rezoning and that the proposed rezoning complied with the Land Use Plan. Comments received from state agencies in accordance with Chapter 92 of Title 29 are not binding on Council. Thus Council's approval of the rezoning over their objection does not prove in and of itself that Council's decision was unreasonable or irrational.

Also, the Court ruled that the decision of Council was based on substantial evidence in that Council made a "reasonable and rational" findings of fact and imposed conditions responding to the comments of state agencies.

2. Sussex County Advisory Committee for the Aging and Adults with Physical Disabilities

The Sussex County Advisory Committee for the Aging and Adults with Physical Disabilities will meet on Monday, May 17, 2004, at 10:00 a.m. The meeting will take place at the Sussex County West Administrative Complex, North DuPont Highway, Georgetown, Delaware. The general public as well as the media is welcome to attend.

Proposed
Ordinance
(C/Z
No. 1535)

The County Council discussed the Proposed Ordinance entitled "AN ORDINANCE TO AMEND THE COMPREHENSIVE ZONING MAP OF SUSSEX COUNTY FROM AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT TO A MR MEDIUM DENSITY RESIDENTIAL DISTRICT FOR A CERTAIN PARCEL OF LAND LYING AND BEING IN BALTIMORE HUNDRED, SUSSEX COUNTY, CONTAINING 13.35

ACRES, MORE OR LESS” (Change of Zone No. 1535) filed on behalf of Fenwick Commons, L.L.C.

The Planning and Zoning Commission held a Public Hearing on this application on April 1, 2004 at which time action was deferred. On April 29, 2004 the Commission recommended that the application be denied.

Proposed Ordinance (C/Z No. 1535) (continued)

The County Council held a Public Hearing on this application on April 20, 2004 at which time action was deferred.

Mr. Lank, Director of Planning and Zoning, read a summary of the Commissions Public Hearing. The summary, including the recommendation and the findings, were admitted as part of the County Council’s record.

The County Council was advised of a letter dated May 5, 2004, from Kenneth Christenbury of River Basin Engineering. In his letter, Mr. Christenbury requested, on behalf of the owner of Fenwick Commons, LLC, that the zoning request (Change of Zone No. 1535) be withdrawn.

M 309 04 Allow Withdraw of C/Z No. 1535

A Motion was made by Mr. Rogers, seconded by Mr. Jones, to allow Fenwick Commons, L.L.C. to withdraw their rezoning application (Change of Zone No. 1535).

Motion Adopted: 4 Yea, 1 Absent.

Vote by Roll Call: Mr. Phillips, Yea; Mr. Cole, Absent; Mr. Rogers, Yea; Mr. Jones, Yea; Mr. Dukes, Yea

North Coastal Planning Area/ Consultant Selection

Mr. Maneckshaw, Project Engineer, Sussex County Engineering Department, discussed the selection of a consultant to perform work in the North Coastal Planning Area (NCPA). The term of the contract will be through December 31, 2009. Immediate attention will be given to planning studies of the Inland Bays Regional Planning Area (IBRPA) and preliminary reports for the expansion of the Inland Bays Regional Wastewater Facility (IBRWF) and the Wolfe Neck Regional Wastewater Facility (WNRWF). Mr. Maneckshaw stated that the contract is for comprehensive services and may include other projects and services related to wastewater programs in the NCPA during the term of the contract. The IBRWF and WNRWF are Sussex County owned and operated treatment facilities. Also, Oak Orchard, Long Neck, West Rehoboth, and Ellendale are the sewer districts covered by this selection. The primary objective of the consultant selection is to develop a regional plan for both the sewered and unsewered areas in the NCPA.

Mr. Maneckshaw reported that bid packages were received from the following companies:

- George, Miles & Buhr, LLC
- Johnson, Mirmiran & Thompson
- KCI Technologies
- Whitman, Requardt & Associates, LLP

Mr. Maneckshaw reported that all four candidates were interviewed by the Selection Committee and the candidates were ranked as follows:

North
Coastal
Planning
Area/
Consultant
Selection
(continued)

1. Whitman, Requardt & Associates, LLP
2. George, Miles & Buhr, LLC
3. KCI Technologies
4. Johnson, Mirmiran & Thompson

Mr. Izzo asked the County Council to authorize the County Engineering Department to work with the four ranked consultants and to authorize the negotiation of a contract with Whitman, Requardt & Associates to perform the first scope of work, which is the planning study. (Each phase of work will be presented to the County Council separately for approval.)

M 310 04
Approve
Ranking
of Con-
sultants
for the
North
Coastal
Planning
Study
and
Authorize
Negotiation
of Contract
with
WR&A

A Motion was made by Mr. Jones, seconded by Mr. Phillips, based upon the recommendation of the County Selection Committee, that the Sussex County Council approves the ranking of consultants for the North Coastal Planning Area, as follows:

1. Whitman, Requardt & Associates, LLP
2. George, Miles & Buhr, LLC
3. KCI Technologies
4. Johnson, Mirmiran & Thompson

and, whereby the County Engineer is directed to negotiate contracts with the highest ranked firm in accordance with Title 29, Chapter 69, of the Delaware Code to provide consulting services for the North Coastal Planning Area, effective May 11, 2004 through December 31, 2009.

Motion Adopted: 4 Yea, 1 Absent.

Vote by Roll Call: Mr. Phillips, Yea; Mr. Cole, Absent;
Mr. Rogers, Yea; Mr. Jones, Yea;
Mr. Dukes, Yea

Requests

Mr. Baker presented grant requests for the County Council's consideration.

M 311 04
Council-
manic
Grant

A Motion was made by Mr. Jones, seconded by Mr. Rogers, to give \$500.00 (\$300.00 from Mr. Jones' Councilmanic Grant Account and \$50.00 each from Mr. Cole's, Mr. Dukes', Mr. Phillips', and Mr. Rogers' Councilmanic Grant Accounts) to the Friends of the Georgetown Public Library for the 5K Run/Walk Fundraiser.

Motion Adopted: 4 Yea, 1 Absent.

Vote by Roll Call: Mr. Phillips, Yea; Mr. Cole, Absent;
Mr. Rogers, Yea; Mr. Jones, Yea;
Mr. Dukes, Yea

M 312 04 Grant A Motion was made by Mr. Jones, seconded by Mr. Phillips, to give \$500.00 (\$100.00 from each Councilmanic Grant Account) to Kent Sussex Industries for the 2005 wall calendar.

M 312 04 Council- Motion Adopted: 4 Yea 1 Absent.

manic Grant (continued) **Vote by Roll Call:** Mr. Phillips, Yea; Mr. Cole, Absent;
Mr. Rogers, Yea; Mr. Jones, Yea;
Mr. Dukes, Yea

M 313 04 Council- A Motion was made by Mr. Rogers, seconded by Mr. Phillips, to give \$1,000.00 (\$200.00 from each Councilmanic Grant Account) to the American Cancer Society for Lawrence Sammons' participation in the Relay for Life Walk.

Motion Adopted: 4 Yea 1 Absent.

Vote by Roll Call: Mr. Phillips, Yea; Mr. Cole, Absent;
Mr. Rogers, Yea; Mr. Jones, Yea;
Mr. Dukes, Yea

Introduction of Proposed Ordinance Mr. Jones introduced the Proposed Ordinance entitled "AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT AND A GR GENERAL RESIDENTIAL DISTRICT FOR STORAGE OF CLAM SHELLS FOR RECYCLING IN EXISTING BORROW PIT SITE TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN CEDAR CREEK HUNDRED, SUSSEX COUNTY, CONTAINING 40 ACRES, MORE OR LESS" (Conditional Use No. 1576) filed on behalf of Swain Pit, Inc. The Proposed Ordinance will be advertised for Public Hearing.

Introduction of Proposed Ordinance Mr. Rogers introduced the Proposed Ordinance entitled "AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR A MODEL HOME FOR MODULAR SALES TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN LEWES AND REHOBOTH HUNDRED, SUSSEX COUNTY, CONTAINING 0.62 ACRE, MORE OR LESS" (Conditional Use No. 1577) filed on behalf of Brittingham & Collins General Contractors, Inc. The Proposed Ordinance will be advertised for Public Hearing.

Introduction of Proposed Ordinance Mr. Phillips introduced the Proposed Ordinance entitled "AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR A FARM MARKET TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN DAGSBORO HUNDRED, SUSSEX COUNTY,

CONTAINING 2.35 ACRES, MORE OR LESS” (Conditional Use No. 1578) filed on behalf of Blueberry Lane Berry Farm & Orchard, LLC. The Proposed Ordinance will be advertised for Public Hearing.

Proposed Ordinance	Mr. Phillips introduced the Proposed Ordinance entitled “AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR AN UPHOLSTERY SHOP TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN BALTIMORE HUNDRED, SUSSEX COUNTY, CONTAINING 3.0395 ACRES, MORE OR LESS” (Conditional Use No. 1579) filed on behalf of Jody Sweetman. The Proposed Ordinance will be advertised for Public Hearing.
Introduction of Proposed Ordinance (continued)	

Introduction of Proposed Ordinance	Mr. Dukes introduced the Proposed Ordinance entitled “AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR A LUMBER (LOGGING) BUSINESS AND REPAIR AND STORAGE OF EQUIPMENT TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN BROAD CREEK HUNDRED, SUSSEX COUNTY, CONTAINING 5.13 ACRES, MORE OR LESS” (Conditional Use No. 1580) filed on behalf of Crawford and David Matthews. The Proposed Ordinance will be advertised for Public Hearing.
---	--

Request to Draft Ordinance Relating to Manufactured Homes	Mr. Dukes asked the County Council to consider amending the County’s Ordinance pertaining to manufactured homes. Mr. Dukes suggested that an amendment be drafted, which would state that the placement of a double-wide manufactured home on 3/4 acre could be appealed to the Board of Adjustment for a variance.
	Mr. Lank, Director of Planning and Zoning, stated that this would be a use variance and the Board of Adjustment does not grant use variances. For this reason, he suggested that a line item be added to the Ordinance permitting a special exception for a multi-sectional mobile home over five years old.

It was the consensus of the County Council that an ordinance be drafted, reviewed by legal counsel, and presented to the County Council for consideration.

Request to be Placed on County’s Bidder List	Mr. Raymond Horney addressed the County Council. He stated that he is an instrumentation mechanic and that he wants to be added to the County’s bidder list for sewer district projects relating to electronics and controls. He informed the County Council that he has made numerous attempts to be added to the County’s bidder list through Michael Izzo and Heather Sheridan, with no success.
---	--

M 314 04 Adjourn	A Motion was made by Mr. Phillips, seconded by Mr. Jones, to adjourn at 7:15 p.m. Motion Adopted by Voice Vote.
-------------------------	--

Respectfully submitted,

Robin A. Griffith
Clerk of the County Council